



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 04/20/2009 (Per: CMH)

☞ Compile Draft – Appendix **G** ... Part 01 of 01

- | | |
|---|--|
| A ☞ The <u>2009</u> drafting file for
LRB-2519 | E ☞ The <u>2009</u> drafting file for
LRB-2680 |
| B ☞ The <u>2009</u> drafting file for
LRB-2551 | F ☞ The <u>2009</u> drafting file for
LRB-2686 |
| C ☞ The <u>2009</u> drafting file for
LRB-2566 | G ☞ The <u>2009</u> drafting file for
LRB-2687 |
| D ☞ The <u>2009</u> drafting file for
LRB-2522 | H ☞ The <u>2009</u> drafting file for
LRB-2556 (as an insert) |

2009 LRB-2687 has been copied/added to the drafting file for

2009 LRB-2697

2009 DRAFTING REQUEST**Bill**Received: **04/15/2009**Received By: **tdodge**Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**By/Representing: **Gauger**This file may be shown to any legislator: **NO**Drafter: **tdodge**May Contact: **OCI**

Addl. Drafters:

Subject: **Insurance - health**Extra Copies: **PJK**Submit via email: **NO**

Pre Topic:

DOA:.....Gauger -

Topic:

Eligibility and notice changes for state continuation of coverage for health insurance

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	tdodge 04/15/2009	wjackson 04/15/2009		_____			
/P1	tdodge 04/16/2009	wjackson 04/16/2009	rschluet 04/15/2009	_____	mbarman 04/16/2009		
/P2	tdodge 04/16/2009	wjackson 04/16/2009	mduchek 04/16/2009	_____	cduerst 04/16/2009		
/P3			mduchek 04/17/2009	_____	cduerst 04/17/2009		

FE Sent For:

LRB-2687

04/17/2009 08:58:50 AM

Page 2

<END>

2009 DRAFTING REQUEST

Bill

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/P1	tdodge 04/16/2009	wjackson 04/16/2009	rschluet 04/15/2009		mbarman 04/16/2009		
/P2		/P3 WJ 4/16	mduchek 04/16/2009		cduerst 04/16/2009		

FE Sent For:

Handwritten signature and date: 4/16/09
<END>

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/?	tdodge 04/15/2009	wjackson 04/15/2009		_____			
/P1		/P2 WJ 4/16	rschluet 04/15/2009	_____	mbarman 04/16/2009		

FE Sent For:

<END>

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Eligibility and notice changes for state continuation coverage for health insurance

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/?	tdodge	/PI WLJ 4/15					
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FE Sent For:

<END>



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-2687

TJD:.....

WLj

In 4/15/09

For ARRA

Now

PMNR

DOA:.....Jablonsky - State health insurance continuation coverage
eligibility and notice changes

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

Lps: Please
Create auto-
refs.

Gen Cat

1

2

AN ACT ...; relating to: eligibility and notice changes for state continuation
coverage for health insurance. ~~SA~~ Providing an exemption from emergency rule procedures and
granting rule-making authority

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

***The people of the state of Wisconsin, represented in senate and assembly, do
enact as follows:***

3

SECTION 1. 149.10 (2t) (e) of the statutes is amended to read:

4

149.10 (2t) (e) If the individual was offered the option of continuation coverage

5

under a federal continuation provision or similar state program, including under

6

2009 Wisconsin Act ... (this act), section 3 (2), the individual elected the continuation

7

coverage.

8

SECTION 2. 632.746 (3) (b) of the statutes is amended to read:

632.746 (3) (b) With respect to enrollment of an individual under a group health plan or a group health benefit plan, a period of creditable coverage after which the individual was not covered under any creditable coverage for a period of at least 63 days before enrollment in the group health plan or group health benefit plan may not be counted. For purposes of this paragraph, the period specified in 2009 Wisconsin Act ... (this act), section 3 (2) (h) or any waiting period or affiliation period for coverage under the group health plan or group health benefit plan shall not be taken into account in determining the period before enrollment in the group health plan or group health benefit plan.

SECTION 3. Nonstatutory provisions.

(1) DEFINITIONS. In this ^{subsection} ~~section~~, unless the context requires otherwise:

(a) "Act" means the American Recovery and Reinvestment Act of 2009, P.L. 111-5.

(b) "Covered employee" means a person who was previously covered under an employer's group policy.

(c) "Group policy" has the meaning given in section 632.897 (1) (c) 1., 2., and 3. of the statutes.

(d) "Insurer" includes an insurer that issues a group policy that replaces or succeeds a group policy in effect on the date that a terminated insured is first entitled to elect continuation of coverage.

(e) "State eligible individual" means an covered employee or the spouse or dependent of a covered employee, to whom all of the following apply:

1. The covered employee's employment is involuntarily terminated during the period that begins on September 1, 2008, and ends on December 31, 2009 and that

1 involuntary termination is the qualifying event for continuation coverage for the
2 covered employee or the spouse or dependent of the covered employee.

3 **ARF** 2. The covered employee or spouse or dependent of the covered employee is not
4 eligible for continuation coverage under a federal continuation provision, as defined
5 in section 632.745 (8) of the statutes, and becomes eligible for continuation coverage
6 under section 632.897 of the statutes during any of the following:

7 **ARG** a. The period that begins on September 1, 2008, and ends before the effective
8 date of this subdivision 2. a. **ARF** **ARG**

9 **ARM** b. The period that begins on the effective date of this subdivision 2. b. and ends
10 before January 1, 2010. **ARF** **ARM**

11 ~~(d)~~ "Terminated insured" has the meaning given in section 632.897 (1) (f) of the
12 statutes.

13 **ARB** (2) ADDITIONAL CONTINUATION COVERAGE ELECTION OPPORTUNITY FOR STATE
14 ELIGIBLE INDIVIDUALS ELIGIBLE PRIOR TO THE EFFECTIVE DATE OF THIS ACT **Subsection**

15 **ARL** (a) Notwithstanding section 632.897 (2) (d) and (3) (a) of the statutes, an
16 insurer shall permit a state eligible individual who became eligible during the period
17 described under **Subsection** (1) (e) **ARE** **ARG** and who did not elect continuation coverage before
18 the effective date of this paragraph, to elect continuation of coverage during a 60-day
19 period beginning on the date of the notice required to be provided under paragraph

20 **ARH** (b) or (c). **ARF**

21 **ARH** (b) An employer of a terminated insured who may elect continuation for a state
22 eligible individual who became eligible during the period described under subsection
23 **ARD** (1) (e) 2. a. **ARE** **ARG** and who did not elect continuation coverage before the effective date of
24 this paragraph, shall provide notice to the terminated insured that he or she has the
25 right to elect continuation of coverage for the state eligible individual, regardless of

1 whether the employer has already provided notice to the individual under section
2 632.897 (2) (d) of the statutes, subject to paragraph (g) 1. The notice under this
3 paragraph must satisfy all of the following requirements:

4 1. The notice must be provided no later than 10 days after the effective date of
5 this subdivision.

6 2. The notice must include information substantially in the form and be
7 provided in the manner required for the notice required under section 3001 (a) (7)
8 of the ^{federal} act.

9 3. The notice form must be modified appropriately to reflect that the right to
10 elect continuation of coverage is governed by this subsection of this act.

11 4. The notice must include a description of the individual's right to, and the
12 effect of, electing continuation of coverage under this subsection and under section
13 632.897 of the statutes.

14 (c) If an employer that is required to provide the notice under paragraph (b)
15 fails to provide the notice to an individual who is, or who is reasonably likely to be,
16 eligible for the election period under paragraph (a), the insurer that would be
17 responsible for providing continuation coverage to that individual if the individual
18 were to elect continuation of coverage shall provide the notice specified in paragraph
19 (b).

20 (d) The notice under paragraph (b) or (c) is not effective, and the 60-day period
21 for electing continuation of coverage does not commence, unless the notice under
22 paragraph (b) or (c) is provided and contains the information required under par. (b).

23 (e) For a state eligible individual who became eligible for continuation coverage
24 under section 632.897 of the statutes before February 17, 2009, and who did not elect
25 continuation coverage before February 17, 2009, continuation of coverage that is

95 of
be effective
the
1 elected under this subsection shall ~~commence retroactively~~ the date of the first
2 coverage period after February 17, 2009, and is not required to extend beyond the
3 period of coverage that would have been required under section 632.897 of the
4 statutes had the individual elected continuation of coverage when originally eligible
5 instead of under this subsection.

6 (f) For a state eligible individual who became eligible for continuation coverage
7 under section 632.897 of the statutes on or after February 17, 2009, but before the
8 effective date of this paragraph, continuation of coverage that is elected under this
9 subsection shall commence on the date the state eligible individual was originally
10 eligible and coverage is not required to extend beyond the period of coverage that
11 would have been required under section 632.897 of the statutes had the individual
12 elected continuation of coverage when originally eligible instead of under this
13 subsection.

14 (ARJ) → (g) 1. Paragraphs (a) (ARL) and (b) (ARH) do not apply to a state eligible individual if the
15 employer or insurer provided a notice under section 632.897 (2) (d) of the statutes
16 that included the information required under paragraph (b). (ARH)

17 2. If an employer or insurer provided notice that complies with paragraph (b) (ARH)
18 before the effective date of this subdivision, the notice is effective for the purpose of
19 this section and the 60-day period under par. (a) (ARL) begins on the date the notice was
20 provided.

21 (ARC) → (h) An individual who elects continuation of coverage under this subsection
22 shall have elected continuation of coverage for the purpose of section 149.10 (2t) (e) ✓
23 of the statutes, as affected by this act.

24 (i) For an individual who elects continuation of coverage under this subsection,
25 the period, if any, from the date of the termination of the individual's coverage as a

1 result of the qualifying event under section 632.897 (2) (b) of the statutes to the
2 commencement of continuation coverage under this subsection shall be disregarded
3 for the purpose of determining the 63-day period under section 632.746 (3) (b) of the
4 statutes, as affected by this act.

5 (3) NOTICE FOR STATE ELIGIBLE INDIVIDUALS ELIGIBLE BEGINNING ON THE EFFECTIVE
6 DATE OF THIS ACT. An employer of a terminated insured who may elect continuation

7 coverage for a state eligible individual who becomes eligible for continuation
8 coverage under section 632.897 of the statutes during the period under subsection

9 (1) (e) 2 b shall provide notice under section 632.897 (2) (d) of the statutes, except
10 that the notice must include information substantially in the form and be provided
11 in the manner required for the notice under section 3001 (a) (7) of the federal act.

12 (4) CONTINUATION COVERAGE RULES.

13 (a) Notwithstanding section 632.897 of the statutes and subsections (1), (2),
14 and (3), the commissioner of insurance may promulgate rules establishing standards

15 requiring insurers to provide continuation coverage for any individual covered at any
16 time under a group policy who is a state eligible individual to whom subsection (2)

17 or (3) applies or an assistance eligible individual, as defined under section 3001 (a)
18 (3) of the federal act, including rules governing election or extension of election periods,

19 notice, rates, premiums, premium payment, application of preexisting condition
20 exclusions, and election of alternative coverage.

21 (b) The commissioner may promulgate the rules under paragraph (a) as
22 emergency rules under section 227.24 of the statutes. Notwithstanding section
23 227.24 (1) (c) of the statutes, emergency rules promulgated under this paragraph
24 may remain in effect for one year and may be extended under section 227.24 (2) of
25 the statutes. Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the

1 commissioner is not required to provide evidence that promulgating a rule under this
2 paragraph as an emergency rule is necessary for the preservation of public peace,
3 health, safety, or welfare and is not required to provide a finding of emergency for a
4 rule promulgated under this paragraph. ✓

5 (END)

Dodge, Tamara

From: Nepple, Fred - OCI [Fred.Nepple@wisconsin.gov]
Sent: Thursday, April 16, 2009 9:13 AM
To: Gauger, Michelle C - DOA; Dodge, Tamara
Cc: Walsh, Julie E - OCI
Subject: RE: LRB Draft: 09-2687/P1 Eligibility and notice changes for state continuation coverage for health insurance
Attachments: image001.gif; image002.gif; image003.gif

Tamara:

Julie Walsh and I are still reviewing the 2087/P1 draft. I will give you a call when we are done. However my first review identified the following that may require revision so I thought I'd give you an early warning:

✓ Page 2, line 12, "subsection" should be "section."

✓ Page 2, lines 13 to 15, the definition appears to be garbled? Should it be: "means a person who is or was an employee covered under a group policy that covers an employer's employees?"

Page 3, line 19" substitute for "state eligible individual who did not elect continuation coverage before" the following: "a terminated insured who is, or whose spouse or dependent, is a state eligible individual not on continuation coverage on the date of this paragraph." This change captures individual who did elect continuation prior to February 17th but subsequently dropped it for affordability reasons, who now may be able to afford the continuation coverage because of the subsidy. It also captures that the terminated insured has the right to elect, not the state eligible individual (i.e. the employee, not the spouse or dependent.)

Page 3, lines 24 to Page 4, line 1, through "this paragraph" substitute: "who eligible individual under par. (a)". This captures the above be cross reference.

Page 4, line 18: substitute "terminated insured" for "individual".

Page 4, line 18, after "(a)" insert: "for a state eligible individual." Again to capture that the terminated insured may be electing for a spouse or dependent.

Page 5, lines 2 and 3, substitute: "under section 632.897 of the statutes before February 17, 2009, continuation of coverage that is". This again to reflect that continuation may have been elected then dropped.

✓ Page 5, lines 20 to 22 appear to be redundant.

Fred Nepple, General Counsel
Fred.Nepple@oci.state.wi.us
Ph: (608)266-7726 FAX: (608)264-6228
Wisconsin Office of the Commissioner of Ins <http://oci.wi.gov>
PO Box 7873 Madison WI 53707-7873

4/16/2009

125 S Webster St Madison WI 53702

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From: Gauger, Michelle C - DOA
Sent: Thursday, April 16, 2009 8:25 AM
To: Nepple, Fred - OCI
Subject: RE: LRB Draft: 09-2687/P1 Eligibility and notice changes for state continuation coverage for health insurance
Importance: High

Good morning,

Just an update. The ARRA fast-track bill will be compiled around noon today. If you have any edits, please get them to LRB as soon as possible and let me know. Thank you!

Michelle

From: Gauger, Michelle C - DOA
Sent: Wednesday, April 15, 2009 6:00 PM
To: Nepple, Fred - OCI
Cc: Kraus, Jennifer - DOA
Subject: FW: LRB Draft: 09-2687/P1 Eligibility and notice changes for state continuation coverage for health insurance
Importance: High

Here is the draft.

From: Schlueter, Ron [Ron.Schlueter@legis.wisconsin.gov]
Sent: Wednesday, April 15, 2009 5:22 PM
To: Gauger, Michelle C - DOA
Cc: Hanaman, Cathlene - LEGIS; Beadles, Kathleen - DOA
Subject: LRB Draft: 09-2687/P1 Eligibility and notice changes for state continuation coverage for health insurance

Following is the PDF version of draft 09-2687/P1.

4/16/2009



State of Wisconsin
2009 - 2010 LEGISLATURE

In: 4/16/09

TODAY

LRB-2687/P1

TJD:wlj:rs

stays

RmNR of

DOA:.....Gauger - Eligibility and notice changes for state continuation coverage for health insurance

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

LPS: Please
check auto-refs.
Thanks.

Regen

- 1 AN ACT ~~to amend~~ 149.10 (2t) (e) and 632.746 (3) (b) of the statutes; relating to:
2 eligibility and notice changes for state continuation ^{of} coverage for health
3 insurance, providing an exemption from emergency rule procedures, and
4 granting rule-making authority.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 5 SECTION 1. 149.10 (2t) (e) of the statutes is amended to read:
6 149.10 (2t) (e) If the individual was offered the option of continuation coverage
7 under a federal continuation provision or similar state program, including under
8 2009 Wisconsin Act (this act), section 3 (2), the individual elected the continuation
9 coverage.

1 **SECTION 2.** 632.746 (3) (b) of the statutes is amended to read:

2 632.746 (3) (b) With respect to enrollment of an individual under a group health
3 plan or a group health benefit plan, a period of creditable coverage after which the
4 individual was not covered under any creditable coverage for a period of at least 63
5 days before enrollment in the group health plan or group health benefit plan may not
6 be counted. For purposes of this paragraph, the period specified in 2009 Wisconsin
7 Act (this act), section 3 (2) (h), or (i) or any waiting period or affiliation period for
8 coverage under the group health plan or group health benefit plan shall not be taken
9 into account in determining the period before enrollment in the group health plan
10 or group health benefit plan.

11 **SECTION 3. Nonstatutory provisions.**

12 (1) DEFINITIONS. In this subsection, unless the context requires otherwise:

13 (a) "Covered employee" means a person who was previously covered under an
14 employer's group policy. "Covered employee" is a person who was previously covered
15 under an employer's group policy.

16 (b) "Federal act" means the American Recovery and Reinvestment Act of 2009,
17 P.L. 111-5.

18 (c) "Group policy" has the meaning given in section 632.897 (1) (c) 1., 2., and
19 3. of the statutes.

20 (d) "Insurer" includes an insurer that issues a group policy that replaces or
21 succeeds a group policy in effect on the date that a terminated insured is first entitled
22 to elect continuation of coverage.

23 (e) "State eligible individual" means a covered employee, or the spouse or
24 dependent of a covered employee, to whom all of the following apply:

1 1. The covered employee's employment is involuntarily terminated during the
2 period that begins on September 1, 2008, and ends on December 31, 2009, and that
3 involuntary termination is the qualifying event for continuation coverage for the
4 covered employee or the spouse or dependent of the covered employee.

5 2. The covered employee or spouse or dependent of the covered employee is not
6 eligible for continuation coverage under a federal continuation provision, as defined
7 in section 632.745 (8) of the statutes, and becomes eligible for continuation coverage
8 under section 632.897 of the statutes during any of the following:

9 a. The period that begins on September 1, 2008, and ends before the effective
10 date of this subdivision 2. a.

11 b. The period that begins on the effective date of this subdivision 2. b. and ends
12 before January 1, 2010.

13 (f) "Terminated insured" has the meaning given in section 632.897 (1) (f) of the
14 statutes.

15 (2) ADDITIONAL CONTINUATION COVERAGE ELECTION OPPORTUNITY FOR STATE
16 ELIGIBLE INDIVIDUALS ELIGIBLE PRIOR TO THE EFFECTIVE DATE OF THIS SUBSECTION.

17 (a) Notwithstanding section 632.897 (2) (d) and (3) (a) of the statutes, an
18 insurer shall permit a state eligible individual who became eligible during the period
19 described under subsection (1) (e) 2. a. and who ^{does} ~~did not~~ ^{have} ~~elect~~ continuation coverage
20 ^{one} before the effective date of this paragraph, to elect continuation of coverage during
21 a 60-day period beginning on the date of the notice required to be provided under
22 paragraph (b) or (c).

23 (b) An employer of a terminated insured who may elect continuation for a state
24 eligible individual who became eligible during the period described under subsection
25 (1) (e) 2. a. and who ^{does} ~~did not~~ ^{have} ~~elect~~ continuation coverage ^{on} ~~before~~ the effective date of

described in paragraph

described in paragraph (a) **ARA**
1 this paragraph, shall provide notice to the terminated insured that he or she has the
2 right to elect continuation of coverage for the state eligible individual, regardless of
3 whether the employer has already provided notice to the individual under section
4 632.897 (2) (d) of the statutes, subject to paragraph (g) 1. The notice under this
5 paragraph must satisfy all of the following requirements:

6 1. The notice must be provided no later than 10 days after the effective date of
7 this subdivision.

8 2. The notice must include information substantially in the form and be
9 provided in the manner required for the notice required under section 3001 (a) (7)
10 of the federal act.

11 3. The notice form must be modified appropriately to reflect that the right to
12 elect continuation of coverage is governed by this subsection.

13 4. The notice must include a description of the individual's right to, and the
14 effect of, electing continuation of coverage under this subsection and under section
15 632.897 of the statutes.

required under paragraph (b) **ARB**
16 (c) If an employer that is required to provide the notice under paragraph (b)
17 fails to provide the notice *of* to an individual who is, or who is reasonably likely to be,
18 eligible for the election period under paragraph (a), the insurer that would be
19 responsible for providing continuation coverage to that individual if the individual
20 were to elect continuation of coverage shall provide the notice specified in paragraph
21 (b).

On behalf of the state eligible individual
22 (d) The notice under paragraph (b) or (c) is not effective, and the 60-day period
23 for electing continuation of coverage does not commence, unless the notice under
24 paragraph (b) or (c) is provided and contains the information required under
25 paragraph (b).

the state eligible individual terminated insured

1 (e) For a state eligible individual who became eligible for continuation coverage
2 under section 632.897 of the statutes before February 17, 2009, and who did not elect
3 continuation coverage ^{of} ~~before~~ ^{on} February 17, 2009, continuation of coverage that is
4 elected under this subsection shall be effective as of the date of the first coverage
5 period after February 17, 2009, and is not required to extend beyond the period of
6 coverage that would have been required under section 632.897 of the statutes had
7 the individual elected continuation of coverage when originally eligible instead of
8 under this subsection.

9 (f) For a state eligible individual who became eligible for continuation coverage
10 under section 632.897 of the statutes on or after February 17, 2009, but before the
11 effective date of this paragraph, continuation of coverage that is elected under this
12 subsection shall commence on the date the state eligible individual was originally
13 eligible and coverage is not required to extend beyond the period of coverage that
14 would have been required under section 632.897 of the statutes had the individual
15 elected continuation of coverage when originally eligible instead of under this
16 subsection.

17 (g) 1. Paragraphs (a) and (b) do not apply to a state eligible individual if the
18 employer or insurer provided a notice under section 632.897 (2) (d) of the statutes
19 that included the information required under paragraph (b). Paragraphs (a) and (b)
20 do not apply to a state eligible individual if the employer or insurer provided a notice
21 under section 632.897 (2) (d) of the statutes that included the information required
22 under paragraph (b).

23 2. If an employer or insurer provided notice that complies with paragraph (b)
24 before the effective date of this subdivision, the notice is effective for the purpose of

1 this section and the 60-day period under paragraph (a) begins on the date the notice
2 was provided.

3 (h) An individual who elects continuation of coverage under this subsection
4 shall have elected continuation of coverage for the purpose of section 149.10 (2t) (e)
5 of the statutes, as affected by this act.

6 **ARI** → (i) For an individual who elects continuation of coverage under this subsection,
7 the period, if any, from the date of the termination of the individual's coverage as a
8 result of the qualifying event under section 632.897 (2) (b) of the statutes to the
9 commencement of continuation ^{of} coverage under this subsection shall be disregarded
10 for the purpose of determining the 63-day period under section 632.746 (3) (b) of the
11 statutes, as affected by this act.

12 (3) NOTICE FOR STATE ELIGIBLE INDIVIDUALS ELIGIBLE BEGINNING ON THE EFFECTIVE
13 DATE OF THIS SUBSECTION. An employer of a terminated insured who may elect
14 continuation ^{of} coverage for a state eligible individual who becomes eligible for
15 continuation ^{of} coverage under section 632.897 of the statutes during the period under
16 subsection (1) (e) 2. b. shall provide notice under section 632.897 (2) (d) of the
17 statutes, except that the notice must include information substantially in the form
18 and be provided in the manner required for the notice under section 3001 (a) (7) of
19 the federal act.

20 (4) CONTINUATION ^{of} COVERAGE RULES.

21 (a) Notwithstanding section 632.897 of the statutes and subsections (1), (2),
22 and (3), the commissioner of insurance may promulgate rules establishing standards
23 requiring insurers to provide continuation ^{of} coverage for any individual covered at any
24 time under a group policy who is a state eligible individual to whom subsection (2)
25 or (3) applies or an assistance eligible individual, as defined under section 3001 (a)

1 (3) of the federal act, including rules governing election or extension of election
2 periods, notice, rates, premiums, premium payment, application of preexisting
3 condition exclusions, and election of alternative coverage.

4 (b) The commissioner may promulgate the rules under paragraph (a) as
5 emergency rules under section 227.24 of the statutes. Notwithstanding section
6 227.24 (1) (c) of the statutes, emergency rules promulgated under this paragraph
7 may remain in effect for one year and may be extended under section 227.24 (2) of
8 the statutes. Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the
9 commissioner is not required to provide evidence that promulgating a rule under this
10 paragraph as an emergency rule is necessary for the preservation of public peace,
11 health, safety, or welfare and is not required to provide a finding of emergency for a
12 rule promulgated under this paragraph.

13 (END)



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-2687/P2
TJD:wlj:md

In 4/16/09

DOA:.....Gauger - Eligibility and notice changes for state continuation of coverage for health insurance

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

This reflects changes already made to -2697 compile.

Friday

Regen

- 1 AN ACT to amend 149.10 (2t) (e) and 632.746 (3) (b) of the statutes; relating to:
2 eligibility and notice changes for state continuation of coverage for health
3 insurance, providing an exemption from emergency rule procedures, and
4 granting rule-making authority.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 5 SECTION 1. 149.10 (2t) (e) of the statutes is amended to read:
6 149.10 (2t) (e) If the individual was offered the option of continuation coverage
7 under a federal continuation provision or similar state program, including under
8 2009 Wisconsin Act (this act), section 9126, the individual elected the continuation
9 coverage.

1 **SECTION 2.** 632.746 (3) (b) of the statutes is amended to read:

2 632.746 (3) (b) With respect to enrollment of an individual under a group health
3 plan or a group health benefit plan, a period of creditable coverage after which the
4 individual was not covered under any creditable coverage for a period of at least 63
5 days before enrollment in the group health plan or group health benefit plan may not
6 be counted. For purposes of this paragraph, the period specified in 2009 Wisconsin
7 Act (this act), section ⁹¹²⁶ ~~6~~ (2) (i), or any waiting period or affiliation period for
8 coverage under the group health plan or group health benefit plan shall not be taken
9 into account in determining the period before enrollment in the group health plan
10 or group health benefit plan.

11 **SECTION 3 Nonstatutory provisions.** ⁹¹²⁶ ~~3~~ 

12 (1) DEFINITIONS. In this section, unless the context requires otherwise:

13 (a) "Covered employee" means a person who was previously covered under an
14 employer's group policy.

15 (b) "Federal act" means the American Recovery and Reinvestment Act of 2009,
16 P.L. 111-5.

17 (c) "Group policy" has the meaning given in section 632.897 (1) (c) 1., 2., and
18 3. of the statutes.

19 (d) "Insurer" includes an insurer that issues a group policy that replaces or
20 succeeds a group policy in effect on the date that a terminated insured is first entitled
21 to elect continuation of coverage.

22 (e) "State eligible individual" means a covered employee, or the spouse or
23 dependent of a covered employee, to whom all of the following apply:

24 1. The covered employee's employment is involuntarily terminated during the
25 period that begins on September 1, 2008, and ends on December 31, 2009, and that

1 involuntary termination is the qualifying event for continuation of coverage for the
2 covered employee or the spouse or dependent of the covered employee.

3 2. The covered employee or spouse or dependent of the covered employee is not
4 eligible for continuation of coverage under a federal continuation provision, as
5 defined in section 632.745 (8) of the statutes, and becomes eligible for continuation
6 of coverage under section 632.897 of the statutes during any of the following:

7 a. The period that begins on September 1, 2008, and ends before the effective
8 date of this subdivision 2. a.

9 b. The period that begins on the effective date of this subdivision 2. b. and ends
10 before January 1, 2010.

11 (f) "Terminated insured" has the meaning given in section 632.897 (1) (f) of the
12 statutes.

13 (2) ADDITIONAL CONTINUATION COVERAGE ELECTION OPPORTUNITY FOR STATE
14 ELIGIBLE INDIVIDUALS ELIGIBLE PRIOR TO THE EFFECTIVE DATE OF THIS SUBSECTION.

15 (a) Notwithstanding section 632.897 (2) (d) and (3) (a) of the statutes, an
16 insurer shall permit a terminated insured, on behalf of a state eligible individual who
17 became eligible during the period described under subsection (1) (e) 2. a. and who
18 does not have continuation of coverage on the effective date of this paragraph, to elect
19 continuation of coverage during a 60-day period beginning on the date of the notice
20 required to be provided under paragraph (b) or (c).

21 (b) An employer of a terminated insured who may elect continuation of
22 coverage for a state eligible individual described in paragraph (a) shall provide notice
23 to the terminated insured that he or she has the right to elect continuation of
24 coverage for the state eligible individual, regardless of whether the employer has
25 already provided notice to the individual under section 632.897 (2) (d) of the statutes,

1 subject to paragraph (g) 1. The notice under this paragraph must satisfy all of the
2 following requirements:

3 1. The notice must be provided no later than 10 days after the effective date of
4 this subdivision.

5 2. The notice must include information substantially in the form and be
6 provided in the manner required for the notice required under section 3001 (a) (7)
7 of the federal act.

8 3. The notice form must be modified appropriately to reflect that the right to
9 elect continuation of coverage is governed by this subsection.

10 4. The notice must include a description of the individual's right to, and the
11 effect of, electing continuation of coverage under this subsection and under section
12 632.897 of the statutes.

13 (c) If an employer that is required to provide the notice under paragraph (b)
14 fails to provide the notice required under paragraph (b), the insurer that would be
15 responsible for providing continuation of coverage to the state eligible individual if
16 the terminated insured were to elect continuation of coverage on behalf of the state
17 eligible individual shall provide the notice specified in paragraph (b).

18 (d) The notice under paragraph (b) or (c) is not effective, and the 60-day period
19 for electing continuation of coverage does not commence, unless the notice under
20 paragraph (b) or (c) is provided and contains the information required under
21 paragraph (b).

22 (e) For a state eligible individual who became eligible for continuation of
23 coverage under section 632.897 of the statutes before February 17, 2009, and who did
24 not have continuation of coverage on February 17, 2009, continuation of coverage
25 that is elected under this subsection shall be effective as of the date of the first

1 coverage period after February 17, 2009, and is not required to extend beyond the
2 period of coverage that would have been required under section 632.897 of the
3 statutes had the individual elected continuation of coverage when originally eligible
4 instead of under this subsection.

5 (f) For a state eligible individual who became eligible for continuation of
6 coverage under section 632.897 of the statutes on or after February 17, 2009, but
7 before the effective date of this paragraph, continuation of coverage that is elected
8 under this subsection shall commence on the date the state eligible individual was
9 originally eligible and coverage is not required to extend beyond the period of
10 coverage that would have been required under section 632.897 of the statutes had
11 the individual elected continuation of coverage when originally eligible instead of
12 under this subsection.

13 (g) 1. Paragraphs (a) and (b) do not apply to a state eligible individual if the
14 employer or insurer provided a notice under section 632.897 (2) (d) of the statutes
15 that included the information required under paragraph (b).

16 2. If an employer or insurer provided notice that complies with paragraph (b)
17 before the effective date of this subdivision, the notice is effective for the purpose of
18 this section and the 60-day period under paragraph (a) begins on the date the notice
19 was provided.

20 (h) An individual who elects continuation of coverage under this subsection
21 shall have elected continuation of coverage for the purpose of section 149.10 (2t) (e)
22 of the statutes, as affected by this act.

23 (i) For an individual who elects continuation of coverage under this subsection,
24 the period, if any, from the date of the termination of the individual's coverage as a
25 result of the qualifying event under section 632.897 (2) (b) of the statutes to the

1 commencement of continuation of coverage under this subsection shall be
2 disregarded for the purpose of determining the 63-day period under section 632.746
3 (3) (b) of the statutes, as affected by this act.

4 (3) NOTICE FOR STATE ELIGIBLE INDIVIDUALS ELIGIBLE BEGINNING ON THE EFFECTIVE
5 DATE OF THIS SUBSECTION. An employer of a terminated insured who may elect
6 continuation of coverage for a state eligible individual who becomes eligible for
7 continuation of coverage under section 632.897 of the statutes during the period
8 under subsection (1) (e) 2. b. shall provide notice under section 632.897 (2) (d) of the
9 statutes, except that the notice must include information substantially in the form
10 and be provided in the manner required for the notice under section 3001 (a) (7) of
11 the federal act.

12 (4) CONTINUATION COVERAGE RULES.

13 (a) Notwithstanding section 632.897 of the statutes and subsections (1), (2),
14 and (3), the commissioner of insurance may promulgate rules establishing standards
15 requiring insurers to provide continuation of coverage for any individual covered at
16 any time under a group policy who is a state eligible individual to whom subsection
17 (2) or (3) applies or an assistance eligible individual, as defined under section 3001
18 (a) (3) of the federal act, including rules governing election or extension of election
19 periods, notice, rates, premiums, premium payment, application of preexisting
20 condition exclusions, and election of alternative coverage.

21 (b) The commissioner may promulgate the rules under paragraph (a) as
22 emergency rules under section 227.24 of the statutes. Notwithstanding section
23 227.24 (1) (c) of the statutes, emergency rules promulgated under this paragraph
24 may remain in effect for one year and may be extended under section 227.24 (2) of
25 the statutes. Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the

1 commissioner is not required to provide evidence that promulgating a rule under this
2 paragraph as an emergency rule is necessary for the preservation of public peace,
3 health, safety, or welfare and is not required to provide a finding of emergency for a
4 rule promulgated under this paragraph.

5 (END)

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2687/P3ins
TJD:.....

INSERT A

INSURANCE

Under current law, an employee who is covered by a group health insurance policy through his or her employer and who is involuntarily terminated from his or her job may elect to continue coverage after termination. Wisconsin law provides for continuation coverage for those not covered under a similar federal law. Current law requires employers to send a notice within ⁶⁰5 days of the termination describing the terminated employee's right to continue coverage. Within 30 days of receiving the notice, the terminated employee may elect continuation coverage ^efor himself or herself ^gor his or her spouse and dependents if they had also been covered through the employer's group health insurance.

anal-text

The ARRA provides specific benefits for certain people eligible for continuation coverage under federal law or under state law. Under this bill, for those terminated employees who became eligible for state continuation coverage on or after September 1, 2008, but before the effective date of this bill, the employer has [✓]~~10~~⁶⁰ days after the effective date of the bill to send an additional notice that contains the information required under ^{the}ARRA, and the terminated employee has [✓]60 days to elect continuation coverage instead of 30 days. For those terminated employees who become eligible for state continuation coverage on or after the effective date of this bill but before January 1, 2010, the employer must send the notice as required under current law, but the notice must contain the information as required under ^{the}ARRA.

anal-text



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-2687/P3

TJD:wlj:md

DOA:.....Gauger - Eligibility and notice changes for state continuation of
coverage for health insurance

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

- 1 **AN ACT to amend** 149.10 (2t) (e) and 632.746 (3) (b) of the statutes; **relating to:**
2 eligibility and notice changes for state continuation of coverage for health
3 insurance, providing an exemption from emergency rule procedures, and
4 granting rule-making authority.

Analysis by the Legislative Reference Bureau

INSURANCE

Under current law, an employee who is covered by a group health insurance policy through his or her employer and who is involuntarily terminated from his or her job may elect to continue coverage after termination. Wisconsin law provides for continuation coverage for those not covered under a similar federal law. Current law requires employers to send a notice within five days of the termination describing the terminated employee's right to continue coverage. Within 30 days of receiving the notice, the terminated employee may elect continuation coverage for himself or herself or for his or her spouse and dependents if they had also been covered through the employer's group health insurance.

The ARRA provides specific benefits for certain people eligible for continuation coverage under federal law or under state law. Under this bill, for those terminated employees who became eligible for state continuation coverage on or after September

1, 2008, but before the effective date of this bill, the employer has ten days after the effective date of the bill to send an additional notice that contains the information required under the ARRA, and the terminated employee has 60 days to elect continuation coverage instead of 30 days. For those terminated employees who become eligible for state continuation coverage on or after the effective date of this bill but before January 1, 2010, the employer must send the notice as required under current law, but the notice must contain the information as required under the ARRA.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 149.10 (2t) (e) of the statutes is amended to read:

2 149.10 (2t) (e) If the individual was offered the option of continuation coverage
3 under a federal continuation provision or similar state program, including under
4 2009 Wisconsin Act ... (this act), section 9126 (2), the individual elected the
5 continuation coverage.

6 **SECTION 2.** 632.746 (3) (b) of the statutes is amended to read:

7 632.746 (3) (b) With respect to enrollment of an individual under a group health
8 plan or a group health benefit plan, a period of creditable coverage after which the
9 individual was not covered under any creditable coverage for a period of at least 63
10 days before enrollment in the group health plan or group health benefit plan may not
11 be counted. For purposes of this paragraph, the period specified in 2009 Wisconsin
12 Act ... (this act), section 9126 (2) (i), or any waiting period or affiliation period for
13 coverage under the group health plan or group health benefit plan shall not be taken
14 into account in determining the period before enrollment in the group health plan
15 or group health benefit plan.

16 **SECTION 9126. Nonstatutory provisions; Insurance.**

17 (1) **DEFINITIONS.** In this section, unless the context requires otherwise:

1 (a) "Covered employee" means a person who was previously covered under an
2 employer's group policy.

3 (b) "Federal act" means the American Recovery and Reinvestment Act of 2009,
4 P.L. 111-5.

5 (c) "Group policy" has the meaning given in section 632.897 (1) (c) 1., 2., and
6 3. of the statutes.

7 (d) "Insurer" includes an insurer that issues a group policy that replaces or
8 succeeds a group policy in effect on the date that a terminated insured is first entitled
9 to elect continuation of coverage.

10 (e) "State eligible individual" means a covered employee, or the spouse or
11 dependent of a covered employee, to whom all of the following apply:

12 1. The covered employee's employment is involuntarily terminated during the
13 period that begins on September 1, 2008, and ends on December 31, 2009, and that
14 involuntary termination is the qualifying event for continuation of coverage for the
15 covered employee or the spouse or dependent of the covered employee.

16 2. The covered employee or spouse or dependent of the covered employee is not
17 eligible for continuation of coverage under a federal continuation provision, as
18 defined in section 632.745 (8) of the statutes, and becomes eligible for continuation
19 of coverage under section 632.897 of the statutes during any of the following:

20 a. The period that begins on September 1, 2008, and ends before the effective
21 date of this subdivision 2. a.

22 b. The period that begins on the effective date of this subdivision 2. b. and ends
23 before January 1, 2010.

24 (f) "Terminated insured" has the meaning given in section 632.897 (1) (f) of the
25 statutes.

1 (2) ADDITIONAL CONTINUATION COVERAGE ELECTION OPPORTUNITY FOR STATE
2 ELIGIBLE INDIVIDUALS ELIGIBLE PRIOR TO THE EFFECTIVE DATE OF THIS SUBSECTION.

3 (a) Notwithstanding section 632.897 (2) (d) and (3) (a) of the statutes, an
4 insurer shall permit a terminated insured, on behalf of a state eligible individual who
5 became eligible during the period described under subsection (1) (e) 2. a. and who
6 does not have continuation coverage on the effective date of this paragraph, to elect
7 continuation of coverage during a 60-day period beginning on the date of the notice
8 required to be provided under paragraph (b) or (c).

9 (b) An employer of a terminated insured who may elect continuation of
10 coverage for a state eligible individual described in paragraph (a) shall provide notice
11 to the terminated insured that he or she has the right to elect continuation of
12 coverage for the state eligible individual, regardless of whether the employer has
13 already provided notice to the individual under section 632.897 (2) (d) of the statutes,
14 subject to paragraph (g) 1. The notice under this paragraph must satisfy all of the
15 following requirements:

16 1. The notice must be provided no later than 10 days after the effective date of
17 this subdivision.

18 2. The notice must include information substantially in the form and be
19 provided in the manner required for the notice required under section 3001 (a) (7)
20 of the federal act.

21 3. The notice form must be modified appropriately to reflect that the right to
22 elect continuation of coverage is governed by this subsection.

23 4. The notice must include a description of the individual's right to, and the
24 effect of, electing continuation of coverage under this subsection and under section
25 632.897 of the statutes.

1 (c) If an employer that is required to provide the notice under paragraph (b)
2 fails to provide the notice required under paragraph (b), the insurer that would be
3 responsible for providing continuation of coverage to the state eligible individual if
4 the terminated insured were to elect continuation of coverage on behalf of the state
5 eligible individual shall provide the notice specified in paragraph (b).

6 (d) The notice under paragraph (b) or (c) is not effective, and the 60-day period
7 for electing continuation of coverage does not commence, unless the notice under
8 paragraph (b) or (c) is provided and contains the information required under
9 paragraph (b).

10 (e) For a state eligible individual who became eligible for continuation of
11 coverage under section 632.897 of the statutes before February 17, 2009, and who did
12 not have continuation of coverage on February 17, 2009, continuation of coverage
13 that is elected under this subsection shall be effective as of the date of the first
14 coverage period after February 17, 2009, and is not required to extend beyond the
15 period of coverage that would have been required under section 632.897 of the
16 statutes had the individual elected continuation of coverage when originally eligible
17 instead of under this subsection.

18 (f) For a state eligible individual who became eligible for continuation of
19 coverage under section 632.897 of the statutes on or after February 17, 2009, but
20 before the effective date of this paragraph, continuation of coverage that is elected
21 under this subsection shall commence on the date the state eligible individual was
22 originally eligible and coverage is not required to extend beyond the period of
23 coverage that would have been required under section 632.897 of the statutes had
24 the individual elected continuation of coverage when originally eligible instead of
25 under this subsection.

1 (g) 1. Paragraphs (a) and (b) do not apply to a state eligible individual if the
2 employer or insurer provided a noticed under section 632.897 (2) (d) of the statutes
3 that included the information required under paragraph (b).

4 2. If an employer or insurer provided notice that complies with paragraph (b)
5 before the effective date of this subdivision, the notice is effective for the purpose of
6 this section and the 60-day period under paragraph (a) begins on the date the notice
7 was provided.

8 (h) An individual who elects continuation of coverage under this subsection
9 shall have elected continuation of coverage for the purpose of section 149.10 (2t) (e)
10 of the statutes, as affected by this act.

11 (i) For an individual who elects continuation of coverage under this subsection,
12 the period, if any, from the date of the termination of the individual's coverage as a
13 result of the qualifying event under section 632.897 (2) (b) of the statutes to the
14 commencement of continuation of coverage under this subsection shall be
15 disregarded for the purpose of determining the 63-day period under section 632.746
16 (3) (b) of the statutes, as affected by this act.

17 (3) NOTICE FOR STATE ELIGIBLE INDIVIDUALS ELIGIBLE BEGINNING ON THE EFFECTIVE
18 DATE OF THIS SUBSECTION. An employer of a terminated insured who may elect
19 continuation of coverage for a state eligible individual who becomes eligible for
20 continuation of coverage under section 632.897 of the statutes during the period
21 under subsection (1) (e) 2. b. shall provide notice under section 632.897 (2) (d) of the
22 statutes, except that the notice must include information substantially in the form
23 and be provided in the manner required for the notice under section 3001 (a) (7) of
24 the federal act.

25 (4) CONTINUATION COVERAGE RULES.

1 (a) Notwithstanding section 632.897 of the statutes and subsections (1), (2),
2 and (3), the commissioner of insurance may promulgate rules establishing standards
3 requiring insurers to provide continuation of coverage for any individual covered at
4 any time under a group policy who is a state eligible individual to whom subsection
5 (2) or (3) applies or an assistance eligible individual, as defined under section 3001
6 (a) (3) of the federal act, including rules governing election or extension of election
7 periods, notice, rates, premiums, premium payment, application of preexisting
8 condition exclusions, and election of alternative coverage.

9 (b) The commissioner may promulgate the rules under paragraph (a) as
10 emergency rules under section 227.24 of the statutes. Notwithstanding section
11 227.24 (1) (c) of the statutes, emergency rules promulgated under this paragraph
12 may remain in effect for one year and may be extended under section 227.24 (2) of
13 the statutes. Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the
14 commissioner is not required to provide evidence that promulgating a rule under this
15 paragraph as an emergency rule is necessary for the preservation of public peace,
16 health, safety, or welfare and is not required to provide a finding of emergency for a
17 rule promulgated under this paragraph.

18

(END)